IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 8TH NOVEMBER 2006 / 17TH KARTHIKA 1928

WP(C).No. 28803 of 2006(D)

PETITIONER:

NAZEER JAMAL, S/O.JAMAL,
VALIYAVEETTIL, S.R.M.ROAD, KOCHI-18.

BY ADV. SRI.SHAHUL HAMEED MOOPPAN

RESPONDENTS:
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1. SECRETARY, CORPORATION OF KOCHI,
PARK AVENUE, KOCHI-11.

2. CORPORATION COUNSIL, CORPORATION
OF KOCHI, PARK AVENUE, KOCHI-11, REP.
BY MAYOR.

3. V.D.ANTONY, S/O.DEVASSI,
VADASSERI HOUSE, MADAPARAMBU, POTTAKUZHI ROAD,
PACHALAM, KOCHI-12.

***ADDL.R4. THE ENVIRONMENTAL ENGINEER,**
POLLUTION CONTROL BOARD,
GANDHI NAGAR,
KOCHI 20.

***(ADDITIONAL R4 IS IMPLEADED AS PER ORDER DATED 03.11.2006)**

BY ADV. SRI.K.ANAND, SC, COCHIN CORPN.

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 08/11/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC 28803/2006

APPENDIX

PETITIONER'S EXHIBITS

EXHIBIT P1: **PHOTOCOPY OF LICENCE DATED 15.10.2004.**

EXHIBIT P2: **PHOTOCOPY OF NOTICE DATED 03.02.2005.**

EXHIBIT P3: **PHOTOCOPY OF NOTICE DATED 24.02.05.**

EXHIBIT P4: **PHOTOCOPYOF JUDGMENT DATED 17.10.05 IN W.P.(C) 7926/05.**

EXHIBIT P5: **PHOTOCOPY OF NOTICE DATED 03.07.06.**

EXHIBIT P6: **PHOTOCOPY OF NOTICE DATED 20.09.06.**

EXHIBIT P7: **PHOTOCOPY OF APPEAL DATED 19.10.2006.**

EXHIBIT P8: **PHOTOCOPY OF STAY PETITION DATED 19.10.2006.**

EXHIBIT P9: **PHOTOCOPY OF ACKNOWLEDGMENT CARD SIGNED BY 2ND RESPONDENT.**

//TRUE COPY//

P.A. TO JUDGE

PIUS C.KURIAKOSE,J.

W.P.(C) NO.28803 OF 2006

Dated this the 8th day of November, 2006

J U D G M E N T

Having regard to the rival submissions made before me by Sri.Shahul Hameed Moopan, counsel for the petitioner and Sri.K.Anand, Standing counsel for the Corporation, I am of the view that it is not necessary that this court examines the merits of the grounds raised, since Exhibit P7 statutory appeal has been preferred by the petitioner before the council against Exhibits P5 and P6 orders.

The Council of the Corporation will take up Exhibit P7 at the earliest, hear the petitioner and take a correct and just decision on the appeal at its earliest and at any rate within one month of receiving copy of this judgment. Additional 4th respondent will pass appropriate orders on the application for consent submitted by the petitioner at the earliest and at any rate within two weeks from today so that the petitioner can rely on such consent also when the appeal comes up for consideration by the Council. Since it is stated before me that it is only a carpentry unit which is being conducted by the petitioner and the allegations are only

regarding sound pollution and in view of the situation that the carpentry unit was being run by the petitioner at the very same place for the last three years, there will be a direction to the respondent Corporation to put the petitioner back in position of the petitioner's building so that the petitioner can continue to run the unit subject to the final outcome of the appeal.

PIUS C.KURIAKOSE, JUDGE

Rp